THE HONOURABLE MRS. JUSTICE T. MEENA KUMARI
AND
THE HONOURABLE MS. JUSTICE G. ROHINI

WRIT PETITION No. 664 of 2003

ORAL ORDER:
(Per T. Meena Kumari, J)

The Writ Petition is filed seeking writ of mandamus to declare the action of the 1st respondent in directing the 2nd respondent to recover the arrears of sales tax due to the 3rd respondent through coercive methods from the petitioner as illegal and violative of Section 22 of the Sick Industrial Companies Act, 1985 and to set aside the same.

Brief facts of the case are that:

Petitioner is a Public Limited Company having its head Office at Kundara, Kerala. The petitioner engaged in manufacturing of aluminum cables and conductors and also in manufacturing of wire drawing machines. Though the petitioner company is a leading company in its area of activity during 80s, it gradually slipped into red due to the adverse business conditions and non-payment of the arrears by the State Electricity Boards, who were its main customers. Ultimately, the petitioner industry became a Sick Industrial Company. The learned counsel for the petitioner submits that the petitioner company has approached the B.I.F.R. under Section 15 of the Sick Industrial Companies (Special Provisions) Act, 1985 and it was registered as 93 of 1987 by the B.I.F.R. A scheme of rehabilitation was formulated and was also put into force with effect from 1.11.1989 by the B.I.F.R. The scheme did not get the expected results, ultimately, it failed. The learned counsel for the petitioner further submits that the revival

proceedings are still pending before the B.I.F.R. and hence the provisions of Section 22 of the S.I.C.A. are applicable to the petitioner industry. Subsequently, the 3rd respondent has approached the 1st respondent for recovery of sales tax to the tune of Rs. 52,82,240/- pertaining to the transactions of the petitioner conducted in the State of U.P. in the past and the 1st respondent has instructed the 2nd respondent to recover the same as arrears of land revenue and accordingly issued proceedings dated 19.11.2002. Challenging the same, the present Writ Petition has been preferred by the petitioner.

Heard the learned counsel for the petitioner and also the learned Govt. Pleader for Revenue.

It has been stated by the learned counsel for the petitioner that the B.I.F.R. has moved a scheme for the sale of units situated at different places, but, the said scheme was not successful. The learned counsel for the petitioner further submits that the petitioner also went in appeal to the appellate authority and the appellate authority has directed to frame the scheme and the said appeal is still pending consideration. It has also been contended by the learned counsel for the petitioner that the respondent has to make an appropriate application.

Under the above circumstances, as the industry has been declared as sick industry, suffice if a direction is given to the respondents to make appropriate application before the B.I.F.R. for necessary orders.

Accordingly, the Writ Petition is disposed of. However, the respondents shall made an appropriate application before the B.I.F.R. for necessary orders in accordance with law.

With the above observations, the Writ Petition is disposed of.

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T. MEENA KUMARI, J

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G. ROHINI, J

27.11.2007
CHV